

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**TOMMY DUKES, BOBBY GIBSON,
BEN WINSTON, KENT CRIDER, and
TIM JOHNSON**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 2:17-CV-150-KS-MTP

**CITY OF LUMBERTON and
JOHN DOES 1-5**

DEFENDANTS

ORDER

THIS MATTER is before the Court on Rebecca Hale's Motion [70] to be joined as a Plaintiff in the above-styled action. For the reasons stated herein, the Court finds that Hale's Motion should be denied.

Plaintiffs filed this lawsuit on August 25, 2017 seeking back-pay from the city of Lumberton in relation to their service as alderman. Compl. [1]. Then, on October 26, 2017, Plaintiffs filed an amended Complaint [12]. Hale claims that she and the existing Plaintiffs have identical claims, and she wishes to join this action as a plaintiff.

A Case Management Order was entered on June 6, 2018 requiring all joinder motions to be filed by July 6, 2018. Order [59]. This Motion, therefore, is untimely under the Case Management Order and may be denied for this reason. Moreover, the Motion is procedurally improper.

Hale, who is not a party, moves under Federal Rules of Civil Procedure 19 and 20 to join this action. Only an existing party may make a motion to join a non-party. *Arrow v. Gamblers Supply, Inc.*, 55 F.3d 407, 409 (8th Cir. 1995); *see also Thompson v. Boggs*, 33 F.3d 847, 858 n. 10 (7th Cir. 1994)(stating that a motion by a non-party to join appeared inappropriate and the better course of action would be a motion to intervene); *Mastercard Int'l Inc. v. Visa Int'l Serv.*

Ass'n Inc., 471 F.3d 377, 382 (2d Cir. 2006); *Borgeois v. Vanderbilt*, 251 F.R.D. 368, 370 (W.D. Ark. 2008); *Washington v. Jones*, 2017 WL 4844379, at *4 (S.D. Miss. April 19, 2017)(discussing Rule 20 as the means by which a plaintiff joins other parties as plaintiffs). As this Court has said, “Generally, permissive joinder of plaintiffs under Federal Rule of Civil Procedure 20 is at the option of the plaintiffs, assuming that they meet the requirements set forth in Rule 20.” *United States v. Ashbritt Inc.*, 2009 WL 14233421, at *1 (S.D. Miss. May 20, 2009).

IT IS, THEREFORE, ORDERED that Rebecca Hale’s Motion for Joinder [70] is DENIED.

SO ORDERED, this the 5th day of October, 2018.

s/Michael T. Parker
United States Magistrate Judge